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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,018	03/05/2001	Arvo Poldmaa	9764-008US (10275/DD)	5206

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2005 MARKET STREET, SUITE 2200  
PHILADELPHIA, PA 19103-7013

EXAMINER

DORSEY, DENNIS

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/800,018

Applicant(s)

POLDMAA, ARVO

Examiner

Dennis L Dorsey

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 11-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 21 October 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on October 21, 2002 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 3-7 is withdrawn in view of the newly discovered reference(s) to Nelson et al. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 8-10, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bear Patent Number 198,559.

Bear '559 teaches all the limitations of the above claims including a tapering rod (A) with receiving means at one end to receive a safety rope (a), securing means (C), mounting means (b) secured to securing means, device anchored to building element (see Figure) with an aperture that securing means (C) passes through and building element between embedded securing means (C) and the mounting means (b).

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***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. Patent Number 5,862,880 in view of Bear Patent Number 198,559.

Nelson '880 teaches all the limitations of the above claims except the use of a tapering rod and threads on the securing means. Nelson '880 teaches rod with receiving means (32), to receive a safety rope (16), securing means (30) with second end portion embedded into building, mounting means (12) secured to securing means, device anchored to building element (P, R) with an aperture that securing means (C) second end passes through and building element sandwich between embedded securing means (C) and the mounting means (12). Bear '559 teaches a securing device with a tapering rod (A). It would have been obvious for one skilled in the art at the time the invention was made to modify the Nelson'880 reference and provide a tapering rod to improve the strength of the rod as a matter of obvious design choice. It would have been obvious for one skilled in the art at the time the invention was made to provide a threaded bolt and nut to connect the mounting means to the roof to provide additional strength to the safety support as a matter of obvious design choice requiring only routine skill in the art.

***Response to Arguments***

7. Applicant's arguments filed October 21, 2002 have been fully considered but they are not persuasive. The Bear '559 reference teaches all the structural limitations as set forth in the above claims. In a U.S.C. 102 rejection when all structural limitations are met it is held that any claimed function or intended use is inherent when all structural limitations have been met. The Applicant's draws a distinction between the instant application and the Bear '559 reference by saying the Bear '559 reference is "stiff and strong" and "rigid and vertical". The Examiner agrees with this description of the Bear '559 reference but fails to see the distinction since the instant invention is being used to secure a person to a building and made of stainless steel it would have to be "stiff and strong" and "rigid". Figure 4 shows it "vertical". The Examiner further concludes that the "progressively bending" action under a sudden load is a function of the tapering rod and thus is taught by Bear '559.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis L Dorsey whose telephone number is 703-306-9137. The examiner can normally be reached on Monday-Friday 9:30am-6:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

DLD   
May 5, 2003

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

